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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,190	01/29/2002	Ted Haeselich	HBC 240-KFM	1143

7590 10/08/2002

Karl F Mildes Jr
Mild Hoffberg & Macklin
10 Bank Street Suite 460
White Plains, NY 10606

EXAMINER

SEMUNEGUS, LULIT

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 10/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/980,190	HAESELICH, TED
	Examiner Lulit Semunegus	Art Unit 3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 8-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 8-11 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on January 29, 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
- 1.) Certified copies of the priority documents have been received.
 - 2.) Certified copies of the priority documents have been received in Application No. _____.
 - 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show reference numbers 10 and 12 as described in the amended abstract on page 6. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The abstract of the disclosure is objected to because reference numbers 12 and 10, in two locations each, between lines 6-9 are not shown in the drawing. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (5,018,450) in view of Bush (4,505,200). Smith teaches a practice ammunition projectile (1) comprising a head designed to burst when the projectile strikes a target and to receive a marking agent (3, 6) optically indicating the impact after the head has burst (col. 4, line 55-62), and further comprising a plurality of chemical components

each received in a separate frangible compartment (col. 4, lines 55-62), and said components being mixed and reacting chemically with each other as the compartments break up, causing the optical marking reaction to be produced (col. 2, lines 16-22). Smith does not expressly teach the improvement wherein the compartments are adapted to be broken up by at least one of the initial acceleration and the centrifugal forces on the projectile when in use. Bush teaches that a projectile (10) having two compartments (19,24) and a partition (17,22) where the partition breaks during the initial acceleration and during a centrifugal forces on the projectile (col. 3, lines 11-37). At the time of the invention it would have been obvious to one ordinary skilled in the art to have the compartments break during initial acceleration to track the projectile since the chemical mixture will be visible during the burst before impact.

As to claim 9-11, teaches the optical marking is visible in the infrared range and emits light in the visible and infrared ranges (col. 4, lines 55-62) and wherein the compartments are separated by partitions (2,5), said partitions having predetermined breaking points therein (fig.1).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kotsopoulos et al teach a paint ball with two compartments (fig. 1).
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lulit Semunegus whose telephone number is (703) 306-5960. The examiner can normally be reached on Mon-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (703) 306-4198. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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September 26, 2002

Lulit Semunegus
Examiner
Art Unit 3641

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER